

Rule 24. Intervention.

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of this state confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of this state confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. When the constitutionality of a statute of this state affecting the public interest is drawn into question in any action, the court may require that the Attorney General of this state be notified of such question.

Reporter's Notes to Rule 24: - 1. Generally speaking, the question of whether to allow an intervention has rested in the discretion of the trial court. There are situations, however, under prior Arkansas law where an intervention has been allowed as a matter of right. Ark. Stat. Ann. 31-157 (Repl. 1962) permits a person contesting the validity of an attachment or claiming an interest in attached property to intervene to assert his rights. That statute seems to suggest that an intervention is allowed as a matter of right once the proper interest is shown in the subject matter. *Lawrence v. Ford Motor Credit Co.*, 247 Ark. 1125, 449 S.W.2d 695 (1970). Likewise, Ark. Stat. Ann. 34-1809 (Repl. 1962), provides that upon proper showing, a party claiming an interest in property about to be sold at a partition sale can intervene in that action, with the implication that such right is unconditional. Also, Ark. Stat. Ann. 81-1340(a) (Repl. 1962), seems to suggest that a workmen's compensation carrier has the unconditional right to intervene in an action brought by an injured employee against a third party. Thus, there are at least three situations where the right to intervene is granted by statute as contemplated by Rule 24(a)(1).

2. The Arkansas Supreme Court has held that intervention is not a common law right, but is instead based upon the principle that a party should be permitted to do that voluntarily which,

if known, a court would require to be done. Board of Directors of St. Francis Levee Dist. v. Raney, 190 Ark. 75, 76 S.W.2d 311 (1934). Accordingly, the court has followed the general rule that only necessary parties could intervene as a matter of right, while permitting the trial court to exercise its discretion in deciding whether others could intervene. Pulaski County Bd. of Eq. v. American Republic Life Ins. Co., 223 Ark. 124, 342 S.W.2d 660 (1961). Section (a)(2) of this rule suggests, however, that an intervention as a matter of right may not be limited to those persons who have been traditionally considered as "necessary" parties.

3. Section (b) does not appear to change to any appreciable degree prior Arkansas law concerning permissive interventions. As noted herein, the question of permitting persons other than those mentioned in Section (a) to intervene rests in the sound discretion of the trial court. Thus, Section (b), does not work any changes in prior law.

Associated Court Rules:

Rules of Civil Procedure

Group Title:

IV. Parties

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